

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**GAULTERIO D. CLAYTON**

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**CRIMINAL NO. 1:04CR97 LG-JMR**

**ORDER GRANTING MOTION FOR RETROACTIVE APPLICATION  
OF SENTENCING GUIDELINES TO CRACK COCAINE OFFENSE**

The Court considers this case pursuant to its authority under 18 U.S.C. § 3582(c)(2) and Federal Rule of Criminal Procedure 43(b)(4). The U.S. Sentencing Commission has reduced guideline offense levels for cocaine base cases, and has made the reductions retroactive to previously-sentenced defendants. Defendant was previously sentenced to 122 months based on a criminal history category I and offense level of 31. The resulting guideline range was 108 to 135 months imprisonment.

The parties agree that Defendant is entitled to a two-level reduction in his offense level, resulting in a new guideline range of 87 to 108 months. Both parties agree that a sentencing reduction from 122 months is appropriate in this case. However, where the Defendant asks to be sentenced at the lowest guideline sentence, the government asserts it would be more consistent with the Court's earlier decisions in this case to sentence Defendant nearer the top of the guideline range. After careful consideration of the respective arguments, the Court finds that Defendant's Motion should be granted, and that his sentence should be reduced from 122 months to **98** months imprisonment.

**IT IS THEREFORE ORDERED AND ADJUDGED** that the Defendant's Motion [128, 136] for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense

pursuant to 18 U.S.C. § 3582 is **GRANTED**.

**IT IS FURTHER ORDERED AND ADJUDGED** that Defendant's sentence is reduced from 122 months to **98** months imprisonment. All other terms and provisions of the original judgment remain in effect.

**IT IS FURTHER ORDERED AND ADJUDGED** that the Clerk of Court shall immediately transmit a copy of this order to the Bureau of Prisons.

**SO ORDERED AND ADJUDGED** this the 1<sup>st</sup> day of September, 2009.

s/ *Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE